

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

MICHAEL POWELL,

*Plaintiff,*

v.

UNITED RENTALS, INC., JAMES MOTT  
Individually, and DAVID DEVORAK,  
Individually,

*Defendants.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 19-4044 \_\_\_\_\_

**NOTICE OF REMOVAL**

Defendants United Rentals, Inc., James Mott and David Dvorak (collectively “Defendants”) file this Notice of Removal (“Notice”) and respectfully state as follows:

**STATEMENT OF THE CASE**

1. On July 8, 2019, Plaintiff Michael Powell (“Plaintiff”) filed suit against Defendants in the Iowa District Court for Woodbury County, Iowa, styled *Michael Powell v. United Rentals, Inc., James Mott, Individually, and David Devorak, Individually*, Cause No. LACV187222. Defendant David Dvorak received Plaintiff’s Petition at Law and Jury Demand (“Petition”) on July 17, 2019.

2. Plaintiff asserts claims against Defendants under the Americans with Disabilities Act (“ADA”) and the Iowa Civil Rights Act.

3. Plaintiff’s Petition asserts claims arising under federal law against Defendants. Plaintiff specifically alleges that “this action is based upon the provisions of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. Section 12101, *et seq.*, and all amendments thereto” and alleges that Defendants failed to accommodate Plaintiff’s disability and terminated

Plaintiff's employment because of Plaintiff's physical disabilities and because of Plaintiff's request for an accommodation. *See* Petition ¶¶ 5, 16-21.

### **REMOVAL BASED ON FEDERAL QUESTION**

4. Removal is proper under 28 U.S.C. §§ 1331 and 1441 because federal question jurisdiction exists when a civil action arises under the laws of the United States. In the Petition, Plaintiff expressly alleges violations of the ADA, which is a federal statute. Therefore, Plaintiff's claims under the ADA arise under this Court's federal question jurisdiction, which gives this Court original jurisdiction and are thus properly removable to this Court. *See* 28 U.S.C. §§ 1331; 1441(b).

### **REMOVAL BASED ON SUPPLEMENTAL JURISDICTION**

5. The Court has supplemental jurisdiction over Plaintiff's state law discrimination claim under the Iowa Civil Rights Act because such claims are so related to claims within the Court's original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. *See* 28 U.S.C. § 1367. Plaintiff's Iowa Civil Rights Act claims are based on the same allegations on which Plaintiff bases Plaintiff's ADA claim.

### **TIMELINESS OF REMOVAL**

6. Less than thirty (30) days have passed since July 17, 2019, the date Plaintiff served the Petition on Defendant David Dvorak. Accordingly, this Notice is timely under 28 U.S.C. § 1446(b).

### **VENUE**

7. Venue lies in the Northern District of Iowa, Western Division, because Plaintiff filed the state court action in this judicial district and division. 28 U.S.C. §§ 1441(a) and 1446(b).

## **NOTICE OF REMOVAL GIVEN TO STATE COURT**

8. Defendant will file a Notice of Removal to Federal Court with the Iowa District Court for Woodbury County on the date of this filing with this Court. A copy of the Notice of Removal that will be filed with the Iowa District Court for Woodbury County, without its attachments, is attached hereto as Exhibit A.

## **COMPLIANCE WITH LOCAL RULE 81**

9. In accordance with Local Rule 81 of the United States District Court of the Northern District of Iowa, attached to this Notice are copies of all process, pleadings and orders filed in the Iowa District Court for Woodbury County case (Exhibit B), a list of all motions pending in the Iowa District Court for Woodbury County case that will require resolution by this Court (Exhibit C), and the names of counsel and law firms that have appeared in the state court, with their office addresses, telephone numbers, facsimile numbers, and e-mail addresses (if available), and the names of the parties they represent (Exhibit D). A signed Disclosure Statement is also being filed concurrently with this Notice.

THEREFORE, Defendants respectfully request that further proceedings in the lawsuit pending in the Iowa District Court for Woodbury County, Iowa be discontinued and that Cause No. LACV187222 be removed to this Court, that this Court assume full jurisdiction over this action as provided and allowed by law, and that this Court grant Defendants all other relief, legal or equitable, to which they are justly entitled.

Respectfully submitted,

/s/ John C. Gray

John C. Gray, AT0002938  
HEIDMAN LAW FIRM, P.L.L.C.  
1128 Historic 4th Street  
P.O. Box 3086  
Sioux City, IA 51102  
Phone: (712) 255-8838  
Fax: (712) 258-6714  
E-Mail: [John.Gray@heidmanlaw.com](mailto:John.Gray@heidmanlaw.com)

Karen C. Denney (*Pro Hac Vice Pending*)  
Texas State Bar No. 24036395  
[karen.denney@haynesboone.com](mailto:karen.denney@haynesboone.com)  
HAYNES AND BOONE, LLP  
301 Commerce Street, Suite 2600  
Fort Worth, Texas 76102  
Telephone: (817) 347-6616  
Telecopier: (817) 348-2327  
[karen.denney@haynesboone.com](mailto:karen.denney@haynesboone.com)

**ATTORNEYS FOR DEFENDANTS UNITED  
RENTALS, INC., JAMES MOTT AND DAVID  
DVORAK**

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of this document was forwarded to the following Plaintiff on this 6<sup>th</sup> day of August, 2019, via U.S. Certified Mail, return receipt requested and U.S. Mail:

Michael Powell  
P.O. Box 162  
Kingsley, Iowa 51028

/s/ John C. Gray  
John C. Gray